UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/012,466	12/12/2001	Bruno Richard	50002133-2	7262

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EXAMINER
THAI, HANH B

ART UNIT	PAPER NUMBER
2163	

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
		10/012,466	RICHARD ET AL.
Office Action Summary		Examiner	Art Unit	
		Hanh B. Thai	2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *amendment filed 8/17/05*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15 and 18-39* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15 and 18-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant argues on pages 11-13 "Whiting does not disclose the scanning operation to

derive a set of word data indexes for direct access to the files based on the word data content of

the files."

Examiner responds: Office personnel are to give the claims broadest reasonable

interpretation consistent with the specification. See In re Morris, 127 F.3d 1048, 44

USPQ2d 1023 (Fed. Cir. 1997). See MPEP § 2111 - § 2116.01.

Applicant pointed to page 1, lines 15-20 and page 7, lines 18-36 (response 2/25/05) as

support for the claimed indexing for use in direct access to the files. However, there is not

enough support to show how the scanning step of the backing up operation is used to derive a set

of word data indexes for subsequent use in obtaining direct access to the files.

Whiting clearly discloses a "dirIndex Range" is used in the backup operation and served

as a speed access to a "fileEntry" record of the file (Figs.3-5 and col.12, lines 38-63) and thus

reads on the claimed "using the scanning step of the backup operation to an indexes for use in

obtaining direct access to the files." Furthermore, Midgdey discloses the system and method for

storing and retrieving files for archival purposes including a control words which determine how

an operating system processes the data words or access information which allows a user access

to data file (summary and col. 5, lines 46-67, Midgdey). Therefore, the combination of Whiting

and Midgdey discloses all of the claimed features.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-15 and 18-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Whiting et al. (U. S. Patent no. 5,778,395) of record in view of Midgdey et al. (US 5,485,606).

Regarding claims 1, 12-13 and 23, Whiting discloses a process for indexing files residing

on a computer as part of backup operation, comprising the steps of:

- executing one or more periodic backup operations on the files, said backup

    operation including the step of scanning the files (see col. 3, line 7-48 and col.

    14, line 45-49, Whiting);

- using said scanning operation to indexes for subsequent use in obtaining direct

    access to said files (see Fig.3-5; col.4, line 25-32, col. 5, line 45-46 and col. 14,

    line 48-51 and col.12, lines 38-63, Whiting).

Whiting, however, does not disclose the word data indexes provides an access to the files

based on the word data content of the files. Midgdey, on the other hand, discloses the

system and method for storing and retrieving files for archival purposes including a

control words which determine how an operating system processes the data words or

access information which allows a user access to data file (summary and col. 5, lines 46-

67, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of

the invention was made to modify Whiting to include the claimed feature as taught by

Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claim 2, Whiting/Midgdey combination further discloses the restoring of many files from the backup (see 4. line 46-50 and col. 5, line 41-46, Whiting) and the files including system files, program files and other files. Therefore, these files must contain both text-processing files and compound files.

Regarding claim 3, Whiting/Midgdey combination further discloses a centralized environment where a server (100, Fig. 1, Whiting) is associated with a database (101, Fig. 1, Whiting), said database adapted to store backup files and wherein said server substantially simultaneously carries out the backup and the indexing of the files (see col. 6, line 21-32; col. 10, line 39-65 and col. 14, line 26-42, Whiting).

Regarding claim 4, Whiting/Midgdey combination further discloses the step of generating a centralized table of indexes loaded on said server (col.3, lines 49-53 and col.4, line 59 to col.5, line 2, Whiting).

Regarding claim 5, Whiting/Midgdey combination further discloses that the access rights are defined for each file including at least one indexing right that is used for controlling the indexing process of the files within the centralized table of indexes (col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 6, Whiting/Midgdey combination further discloses a first indexing attribute which authorizes the indexing of a given file within the centralized index; and a second indexing attribute defining selective access to that file (Fig.22 and corresponding text, Midgdey. The "index" and "new index" corresponds to first and second index with value attribute).

Regarding claim 7, Whiting/Midgdey combination further discloses the backup of files residing on a first machine, said server transmits to the first machine a local table of indexes representative of the different documents stored on that first machine (see col. 14, line 49-54, Whiting).

Regarding claim 8, Whiting/Midgdey combination further discloses that the transfer of the files which are to be backed up uses the Hyper Text Transfer (H.T.T.P.), RCP, FTP or the like protocols (see col. 13, line 31-38, Whiting).

Regarding claims 9-10, Whiting/Midgdey combination further discloses that the files correspond to system and/or user files and the indexing is performed in relation to the user files (see Fig. 3 and corresponding text, Whiting).

Regarding claim 11, Whiting/Midgdey combination further discloses

- initiating a search request for a given file, said request containing a set of key words or indexes (see col. 5, line 3-34 and col.13, line 11-36, Whiting);

- processing said search request by reference to a first local table of indexes stored on one of said plurality of computers in order to locate a first set of relevant files extracted from said one computer (col.17, line 5 to col. 18, line 35, Whiting);

- processing, upon request from the user, an additional search within said centralized index loaded into said server for the purpose of obtaining any additional results corresponding to files stored on the backup database (see col. 8, line 8-20, Whiting).

- displaying the result of said additional search and, for each or any file having a selective access attribute, automatically generating an electronic mail to be sent

to a corresponding originator of said file for the purpose of requesting access to said file (see col. 35, line 44-63, Whiting).

Whiting, however, does not disclose the requesting access to the. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (summary and col. 5, lines 46-67, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claim 14, Whiting discloses a knowledge-base system for indexing files residing on a computing system as part of a backup operation comprising:

- means for regularly backing up files stored on computers connected to or constituting a network (see col. 3, line 7-48 and col. 7, line 8-31, Whiting);

- means for substantially simultaneously indexing the files during the backup procedure for the purpose of creating and updating a database of backup files and documents as well as a centralized index of backed up documents (see col.4, line 59 to col.5, line 19; col. 14, line 26-65; Fig. 3 and corresponding text, Whiting).

Whiting, however, does not disclose the accessing to the backup files based on the word data content of the backed-up documents. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a

control words which determine how an operating system processes the data words or access information which allows a user access to data file (summary and col. 5, lines 46-67, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claim 15, Whiting discloses a backup process for a stand-alone computer comprising:

-       opening each file which is to be backed up;

-       while opening said file, compiling a set of indexes characterizing said files and which will be incorporated into a table of indexes (see col. 14, line 38-43, Whiting);

-       closing said file upon completion of said backup and said indexing operation (see col. 14, line 26-65; Fig. 3 and corresponding text, Whiting).

Whiting, however, does not disclose a set of word data indexes characterizing the files. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (summary and col. 5, lines 46-67, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claims 18, 21 and 31, Whiting discloses a process for indexing files residing

on a plurality of computers as part of a backup operation attached to, or constituting a network

for the purpose of generating a centralized table of indexes for use in obtaining direct access to

said files, the table being stored on a server associated with a database adapted to store backup

files, comprising the steps of:

- executing repeated backup operations on the files, said backup operations

  including the step of scanning the files (see col. 3, line 33-48 and col. 14, line

  45-49, Whiting);

- using the scanning operation to derive a set of itemized indexes, wherein the

  server substantially simultaneously carries out the backup and the indexing of

  the files (see col. 4, line 25-30, col. 5, line 45-46 and col. 14, line 45-49,

  Whiting).

Whiting, however, does not disclose the word data indexes provide access to the files

based on the word data content of the files. Midgdey, on the other hand, discloses the

system and method for storing and retrieving files for archival purposes including a

control words which determine how an operating system processes the data words or

access information which allows a user access to data file (summary and col. 5, lines 46-

67, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of

the invention was made to modify Whiting to include the claimed feature as taught by

Midgdey. The motivation of doing so would have been to improve the efficiency of the

backup process.

Regarding claim 19, Whiting/Midgdey combination further discloses that the access

rights are defined for each file including at least one indexing right that is used for controlling

the indexing process of the files within the centralized table of indexes (col.3, line 49-53; col.4,

lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claims 20 and 22, Whiting/Midgdey combination further discloses a first

indexing attribute which authorizes the indexing of a given file within the centralized index

(Fig.22 and corresponding text, Midgdey. The "index" and "new index" corresponds to first and

second index with value attribute).

Regarding claim 24, Whiting further discloses a centralized environment where a server

(100, Fig. 1, Whiting) is associated with a database (101, Fig. 1, Whiting), said database adapted

to store backup files and wherein said server substantially simultaneously carries out the backup

and the indexing of the files (see col. 6, line 21-32; col. 10, line 39-65 and col. 14, line 26-42,

Whiting).

Regarding claim 25, Whiting further discloses the step of generating a centralized table of

indexes stored on said server (col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines

24-31, line 2, Whiting).

Regarding claim 26, Whiting further discloses the control of access rights that are defined

for each file including at least one indexing right (col.3, line 49-53; col.4, lines 25-27 and line 59

to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 27, Whiting further discloses the at least one indexing right includes: a

first indexing attribute which authorizes the indexing of a given file within the centralized index;

and a second indexing attribute defining selective access to that file (col.3, lines 49-53 and col.4,

line59 to col.5, line 31, Whiting).

Regarding claim 28, Whiting further discloses that the program code elements are

arranged to transmit to a computer a local table of indexes representative of the different files

stored on that computer after completion of the backup of files residing on that computer (see

col. 14, line 49-54, Whiting).

Regarding claims 29 and 37, Whiting discloses a server associated with a database

adapted to store backup files and comprising program code elements for indexing files residing

on a plurality of computers as part of a backup operation attached to, or constituting a network

for the purpose of generating a centralized table of indexes for use in obtaining direct access to

said files, said program code elements comprising:

-        program code element to execute repeated backup operations on the files, said

         backup operations including the step of scanning the files (see col. 3, line 33-48

         and col. 14, line 45-49, Whiting);

-        program code element that uses said scanning operation to derive a set of

         itemized indexes, wherein the server substantially simultaneously carries out the

         backup and the indexing of the files (see col. 4, line 25-30, col. 5, line 45-46 and

         col. 14, line 45-49, Whiting).

Whiting, however, does not disclose the word data indexes provide access to the files

based on the word data content of the files. Midgdey, on the other hand, discloses the

system and method for storing and retrieving files for archival purposes including a

control words which determine how an operating system processes the data words or

access information which allows a user access to data file (summary and col. 5, lines 46-

67, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of

the invention was made to modify Whiting to include the claimed feature as taught by

Midgdey. The motivation of doing so would have been to improve the efficiency of the

backup process.

Regarding claims 30 and 38, Whiting/Midgdey combination further discloses the at least

one indexing right includes: a first indexing attribute which authorizes the indexing of a given

file within the centralized index; and a second indexing attribute defining selective access to that

file (Fig.22 and corresponding text and col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5;

col.7, lines 24-31, line 2, Midgdey. The "index" and "new index" corresponds to first and second

index with value attribute).

Regarding claim 32, Whiting/Midgdey combination further discloses a centralized

environment where a server (100, Fig. 1, Whiting) is associated with a database (101, Fig. 1,

Whiting), said database adapted to store backup files and wherein said server substantially

simultaneously carries out the backup and the indexing of the files (see col. 6, line 21-32; col. 10,

line 39-65 and col. 14, line 26-42, Whiting).

Regarding claim 33, Whiting/Midgdey combination further discloses the step of

generating a centralized table of indexes stored on said server (col.3, line 49-53; col.4, lines 25-

27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 34, Whiting/Midgdey combination further discloses that the access

rights are defined for each file including at least one indexing right that is used for controlling

the indexing process of the files within the centralized table of indexes (col.3, line 49-53; col.4,

lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 35, Whiting/Midgdey combination further discloses a first indexing

attribute which authorizes the indexing of a given file within the centralized index; and a second

indexing attribute defining selective access to that file (Fig.22 and corresponding text, Midgdey.

The "index" and "new index" corresponds to first and second index with value attribute).

Regarding claim 36, Whiting/Midgdey combination further discloses that the program

code elements are arranged to transmit to a computer a local table of indexes representative of

the different files stored on that computer after completion of the backup of files residing on that

computer (see col. 14, line 49-54, Whiting).

Regarding claim 39, Whiting discloses a program product for backing up files within a

network of computers, comprising:

(a) computer program code stored on a computer readable medium adapted, when

executed on a computer, (i) to execute one or more repeated backup operations on files stored on

a computer, said backup operation including the step of scanning the files (see col. 3, line 33-48

and col. 14, line 45-49, Whiting); and (ii) to substantially simultaneously derive using said

scanning operation a set of word data indexes (see col. 4, line 25-30, col. 5, line 45-46 and col.

14, line 45-49, Whiting); and

(b) computer program code stored on a computer readable medium adapted, when

executed on a computer, to search for a file stored on a plurality of computers connected to, or

constituting, a network within such a set of itemized indexes (see col. 5, line 3-34 and col.13,

line 11-36, Whiting), by (i) initiating a search request for a given file, said request containing a

set of key words or indexes, (ii) processing said search request by reference to a first local table

of indexes stored on one of said plurality of computers in order to locate a first set of relevant

files extracted from said one computer (col. 17, line 5 to col. 18, line 35, Whiting); (iii)

processing an additional search within a centralized index on a server (col. 6, line 21-32; col. 10,

line 39-65 and col. 14, line 26-42, Whiting) for the purpose of obtaining any additional results

corresponding to files stored on the backup database (see col. 8, line 8-20, Whiting), (iv)

displaying the result of said additional search (see col. 35, line 44-63, Whiting).

Whiting, however, does not disclose the word data indexes provide access to the files

based on the word data content of the files. Midgdey, on the other hand, discloses the system and

method for storing and retrieving files for archival purposes including a control words which

determine how an operating system processes the data words or access information which allows

a user access to data file (summary and col. 5, lines 46-67, Midgdey). It would have been

obvious to one of ordinary skill in the art at the time of the invention was made to modify

Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would

have been to improve the efficiency of the backup process.

Conclusion

3.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

4.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Hanh B. Thai whose telephone number is 571-272-4029. The

examiner can normally be reached on 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

<div style="text-align: right">

Hanh B Thai
Examiner
Art Unit 2163

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October 17, 2005

UYEN LE
PRIMARY EXAMINER